REMARKS

In response to the Official Action mailed May 17, 2004, Applicants amend their application and request reconsideration. In this Amendment, one claim is added and no claims are canceled so that claims 1-15 are now pending. No new matter has been added.

Claim 15 is added to recite additional features of the invention. Claim 15 recites that the local server acquires the script and fault countermeasures from the center server (see page 13, lines 17-21 and page 26, lines 15-19 of the patent application).

The Official Action objects to the title. A new title of the invention is provided in this Amendment.

The Official Action asserts that the text of this foreign-origin patent application is "replete with grammatical and idiomatic errors to [sic] numerous to mention specifically." Applicants disagree. A review of the text indicates that one of skill in the relevant art can easily understand the subject matter disclosed and claimed. Applicants request withdrawal of the objection.

The Official Action objects to the drawings for containing legal phraseology such as "means." Applicants respectfully traverse that objection. The Official Action has not provided, nor can Applicants identify, any authority prohibiting the use of the term "means" the drawings as an identifying legend. Indeed, the drawings containing such language merely comprise block diagrams illustrating the constitution of the embodiments. Thus, the use of legends including the word "means" renders the "corresponding structure" no less ascertainable than if "means" were not present in the legends. Accordingly, the requested amendment is unnecessary and burdensome on the Applicants, and Applicants respectfully request that the objection to the drawings be withdrawn.

The Official Action objects to use of hyperlinks and/or other forms of browser-executable code in the application. Applicants respectfully traverse the objection. Applicants first note that the application contains no hyperlinks, commercial or otherwise. Furthermore, the alleged browser-executable code (code using tags formatted with a "<" beginning the tag and a ">" ending the tag) is eXtensible Markup Language (XML) code, and is not browser-executable. That is, the code appearing in the specification does not function as active code when viewed by a web browser, and thus cannot provide redirection to another web site, commercial or otherwise. Moreover, the code is part of Applicants' invention and therefore it is necessary to have it included in the patent application in order to comply with the requirements of 35 U.S.C. 112, first paragraph. Accordingly, the requested amendment is unnecessary and burdensome on

the Applicants, and Applicants respectfully request that the objection to the drawings be withdrawn.

The Official Action rejects claims 1-14 as anticipated by Bowman-Amuah (US Patent 6,256,773). That rejection is respectfully traversed.

For a prior art reference to anticipate, in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single reference. See *In re Bond*, 910 F.2d 831, 832, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990). Bowman-Amuah fails to identically teach every element recited in claim 1. For example, the Official Action contends that Bowman-Amuah teaches a center server and a local server at column 1, line 60 (client and server). The Official Action also contends that Bowman-Amuah teaches an application on the center server that operates upon being downloaded to the local server at column 67, lines 40-44. The Official Action further contends that Bowman-Amuah teaches a script describing the operation of that application at column 57, lines 45-47 and column 101, lines 30-35. However, the client and server of column 1 of Bowman-Amuah bear absolutely no relation to the application of column 67, which also bears no relation to the test script of columns 57 and 101. That is, even if Bowman-Amuah does teach certain elements of claim 1, it fails to teach the structural and functional relationships between those elements, that are recited by claim 1. One of ordinary skill in the art could not practice the invention recited in claim 1 based on the many disparate elements of Bowman-Amuah pointed to by the Official Action.

Moreover, Applicants note that Figure 13 of Bowman-Amuah, upon which the Official Action relies to teach the fault countermeasure means on the center server and the highly reliable means for recording event data on the local server, does not show an architecture as divided between a center server and a local server. Thus, Bowman-Amuah does not identically show elements and arrangement recited by claim 1. Accordingly, the rejection should be withdrawn for this reason alone.

Furthermore, Bowman-Amuah fails to teach a remote management means for downloading the application from the center server, and for deleting the application after processing has finished. The Official Action provides no support for the contention that Bowman-Amuah teaches deleting the application. Indeed, Applicants can find no support for that contention anywhere in voluminous specification of Bowman-Amuah.

Still further, Bowman-Amuah fails to teach a script interpretation means for interpreting the script and requesting the application to execute. Bowman-Amuah discloses merely that test scripts are used to verify software; it says nothing of requesting an application to execute. Thus, Bowman-Amuah fails to teach all of the limitations of claim 1.

Accordingly, the rejection is erroneous and should be withdrawn. By similar reasoning, the rejection of claims 11 and 13 are also erroneous, and should likewise be withdrawn.
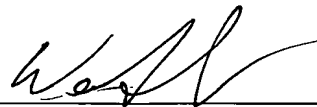
Regarding claim 4, the Official Action contends that a that script is described in XML (extensible markup language), and a script definition that is described in DTD (document type definition) is inherent to JAVA. That contention is plainly erroneous. JAVA-based scripts are written in the JAVA programming language, not XML. Moreover, the Official Action provides no basis for inherency. "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' " *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted). "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic <u>necessarily</u> flows from the teachings of the applied prior art." *Ex parte Levy,* 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original). Thus, the rejection is erroneous and should be withdrawn.

Regarding new claim 15, Bowman-Amuah fails to teach the local server acquiring the script and fault countermeasures from the center server.

Because none of the previously pending claims are amended, the next Official Action cannot properly be a final rejection if the claims are rejected based upon newly applied publication or a different legal ground.

Reconsideration and withdrawal of the rejection, as well as prompt allowance of the pending claims, are appropriate and earnestly solicited.

Respectfully submitted,

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Amendment or ROA - Regular (Revised 6/5/04)

11